

TMH/GLB:kum 07/07/03 204763
PATENTAttorney Reference Number 4239-63842
Application Number 09/931,700**REMARKS**

Claims 17-43 were pending in this application. By this amendment, claims 17-18 and 21-43 are cancelled, as drawn to non-elected Groups. Applicants expressly reserve the right to pursue protection of any or all of the subject matter of the cancelled claims in a subsequent application.

In addition, claims 19 and 20 have been amended to depend from new claim 44, and new claims 44-46 have been added. Support for claims 44-46 can be found throughout the specification, for example at page 18, line 24 through page 20, line 3; at page 20, line 21 through page 21, line 13; at page 52, lines 1-19; at page 60, line 1 through page 61, line 17; and in original claims 19 and 20.

No new matter is introduced by these amendments. Unless specifically stated otherwise, none of these amendments are intended to limit the scope of any claim. After entry of this amendment, claims 19-20 and 44-46 are pending in the application. Substantive examination of the pending claims is respectfully requested.

Response and Traversal

In response to the Restriction Requirement, Applicants provisionally elect Group C2 (claims 19 and 20; methods of using an antibody to treat or prevent breast cancer) with traverse. Applicants note that, because claim 19 is a linking claim, this election of this single species only applies if no generic claim is finally held to be allowable. As pointed out by Examiner Ungar in the Restriction Requirement dated May 7, 2003, upon election of a single invention of Group C, the restriction requirement among the following linked inventions is subject to the non-allowance of that linking claim. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application.

In addition, Applicants have amended claims 19 and 20 and added new claims 44-46. Applicants request that the Examiner consider the amendments and remarks provided herewith,

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and withdraw or modify the restriction requirement as it applies to the election of a single antibody or combination of antibodies within Group C.

Claims 19-20, as amended, and claims 44-46 are drawn to antibodies that are reactive with at least SEQ ID NO: 2 or 3. As shown in the specification, for example in Figure 1, SEQ ID NO: 2 is shorter than SEQ ID NO: 3, and SEQ ID NO: 3 completely encompasses SEQ ID NO: 2. Because SEQ ID NO: 2 and 3 overlap completely, a search for antibodies that bind to SEQ ID NO: 3 will also uncover any antibodies that bind to SEQ ID NO: 2. A search for both of the claimed antibody types can be accomplished simultaneously, and thus such a search does not represent an undue burden on the Examiner.

Applicants have withdrawn from consideration the claims of non-elected Groups A, B, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, and T. Applicants reserve the right to pursue the subject matter of the withdrawn claims during future prosecution.

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CONCLUSION

It is respectfully submitted that the claims as submitted herewith are drawn to a single invention and are in a condition for substantive examination. If it may further examination of these claims, the Examiner is invited to call the undersigned at the telephone number listed below.

Respectfully submitted,

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